

CHAPTER 50
WOMEN, INFANTS, AND CHILDREN/IOWA FARMERS MARKET NUTRITION PROGRAM

21—50.1(159) Authority and scope. This chapter establishes procedures governing the administration of a farmers market special supplemental food program by the department of agriculture and land stewardship for implementing the applicable agreement and guidelines set forth by the United States Department of Agriculture, Food and Nutrition Service Agreement, in accordance with 1990 Iowa Acts, chapter 1260, section 1, subsection 3.

Information may be obtained by contacting the Agricultural Diversification Bureau, Iowa Department of Agriculture and Land Stewardship, Wallace Building, Des Moines, Iowa 50319, telephone (515)281-5402.

21—50.2(159) Severability. If any provision of a rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule which can be given effect without the invalid provision or application, and, to this end, the provisions of these rules are severable.

21—50.3(159) Program description and goals. The women, infants, and children/Iowa farmers market nutrition program is jointly funded by the state of Iowa and the United States Department of Agriculture—Food and Nutrition Service. The intent of the program is to supply locally grown fresh produce to recipients of the special supplemental food program through the distribution of vouchers that are redeemable only at designated farmers markets. The program is designed to provide both a supplemental source of fresh produce for the dietary needs of women, infants, and children who are judged to be at nutritional risk and to stimulate an increased demand for locally grown fresh produce at Iowa farmers markets.

21—50.4(159) Definitions. For the purposes of this chapter:

“Application” means a request made by an individual to the department for vendor certification in WIC/IFMNP on a form provided by the horticulture and farmers market bureau of the department.

“Authorized farmers market” means a farmers market that operates within the service area and is a site authorized by the department for the exchange of vouchers and locally grown fresh produce.

“Certified vendor” means an individual who has met all WIC/IFMNP conditions as outlined by the department and who is guaranteed payment on all vouchers accepted, provided compliance is maintained by that individual regarding all WIC/IFMNP rules and procedures as outlined in the vendor certification handbook.

“Certified vendor identification card” means a department-issued card that shall be presented by the certified vendor during each occurrence of voucher deposit in the financial institution of certified vendor choice. This card shall remain the sole property of the department with immediate forfeiture by the certified vendor to the department in the event of disqualification.

“Certified vendor identification sign” means department-issued signage which shall be clearly displayed by the certified vendor at all times when accepting or intending to accept vouchers in an authorized farmers market. Signs shall remain the sole property of the department with immediate forfeiture by the certified vendor to the department in the event of disqualification.

“Certified vendor number” means a unique identification number issued for a designated period by the department and assigned to an individual whom the department has identified as a certified vendor. The certified vendor number shall be affixed to the certified vendor identification card and the certified vendor identification sign, and the certified vendor will enter the number on each voucher that is submitted for deposit. An individual shall be assigned no more than one certification number for any designated period.

“*Certified vendor stall*” means all of the area in an authorized farmers market that is dedicated to a certified vendor for the purpose of displaying and offering product for sale. The only exceptions permitted shall be:

1. If the certified vendor elects not to promote any of said area as WIC/IFMNP for an entire farmers market day; or

2. If the certified vendor elects to exclude a portion of the space by maintaining a distance of separation from the certified vendor stall by a minimum of two farmers market vendors who are neither affiliated with nor related to the certified vendor and who are actively participating in the farmers market on the given day. An excluded area shall be operated independent of the certified vendor stall. Exceptions shall hold only if neither acceptance of nor intent to accept vouchers exists.

“*Department*” means the Iowa department of agriculture and land stewardship.

“*Designated distribution clinic*” means a site authorized by the department for dispersal of vouchers by the local agency.

“*Distribution*” means the process outlined by the department and the means by which local agencies actually dispense vouchers to eligible recipients.

“*Farmers market*” means a cooperative or nonprofit enterprise or association that consistently occupies a given site throughout the season, which operates principally as a common marketplace for a group of farmers to sell locally grown fresh produce directly to consumers, and where the majority of products sold are produced by the participating farmers with the sole intent and purpose of generating a portion of household income.

“*Fresh produce*” means fruits and vegetables that have not been processed in any manner. This term does not include such items as nuts, popcorn, vegetable plants/seedlings, dried beans/peas, seeds/grains, and flowers.

“*Local agency*” means an entity that administers local health programs and which has entered into contract for voucher distribution and related service with the department.

“*Locally grown*” means produce that has a trackable point of origin either within Iowa or in an adjacent county to Iowa’s border in a neighboring state.

“*Posted hours and days*” means the operational time frames stated in assurances submitted by a duly authorized representative of an authorized farmers market which include a beginning and an ending time and date for each year of operation.

“*Recipient*” means a client of WIC who is at least six months of age, who possesses one of the WIC classification codes selected for inclusion by the department, and who is an active participant in a designated distribution clinic.

“*Season*” means a clearly delineated period of time during a given year that has a beginning date and ending date, as specified by the department, which correlates with a major portion of the harvest period for locally grown fresh produce.

“*Secretary*” means the secretary of agriculture for the state of Iowa.

“*Service area*” means the geographic areas that encompass all of the designated distribution clinics and authorized farmers markets within Iowa for a designated period.

“*USDA-FNS*” means the United States Department of Agriculture—Food and Nutrition Service.

“*Vendor certification handbook*” means a publication by the department that is based on USDA-FNS mandates and guidelines, addresses all WIC/IFMNP rules and procedures applicable to a certified vendor, and provides the basis for vendor training. A copy of the publication shall be issued to each individual after certification training. New editions supersede all previous editions.

“*Voucher*” means a negotiable instrument issued by the department to recipients that is redeemable only for locally grown fresh produce from certified vendors at authorized farmers markets, with a limited negotiable period that directly correlates to the season designated by the department.

“*WIC*” means the special supplemental food program for women, infants and children, as administered by the Iowa department of public health.

“*WIC/IFMNP*” means the women, infants, and children/Iowa farmers market nutrition program, which is a supplemental food program administered by the department.

GENERAL PROVISIONS

21—50.5(159) Administration and agreements.

50.5(1) The program shall be administered by the secretary or by the secretary's designee.

50.5(2) The department shall maintain all conditions as outlined in the farmers market nutrition state plan submitted to USDA-FNS.

21—50.6(159) Distribution of benefits.

50.6(1) Iowa department of public health WIC client screening processes and records shall provide the basis for identifying recipients eligible for receipt of vouchers.

50.6(2) Local agencies shall distribute vouchers at designated distribution clinics to recipients in the manner specified by the department in the procedures guide for distribution clinic staff. Local agency services shall include, but not be limited to, ensuring:

a. Vouchers are distributed only to recipients through verification that the client name and number printed on the voucher and distribution registry correspond with the client name and number printed on the WIC identification folder in the possession of the recipient.

b. Each recipient is issued vouchers during each distribution as authorized by the department.

c. The voucher serial numbers issued to the recipient correspond to the numbers in the distribution registry in which the recipient signature is affixed.

d. The distribution registry and voucher folder are properly signed by the recipient in the presence of local agency staff at the time of distribution.

e. A proxy is allowed to act on behalf of a recipient if the parent/guardian has extenuating circumstances which do not permit the recipient to pick up the vouchers.

f. Each recipient shall be provided a thorough explanation of program guidelines and recipient responsibility as outlined by the department.

g. All WIC/IFMNP support materials are put into use as outlined by the department.

h. Accurate and complete records of all related WIC/IFMNP activities in the possession of a local agency will be maintained and retained for a minimum of three years following the date of submission of the final expenditure reports for the period to which the report pertains. In the event of litigation or audit findings, the records shall be retained until all issues arising from such actions have been resolved or until the end of the prescribed retention period, whichever is later.

i. All agency records pertaining to this program shall be made available for inspection to representatives of USDA, the comptroller general of the United States, the state auditor, the department, and the Iowa department of public health as necessary, at any time during normal business hours, and as frequently as is deemed necessary for inspection and audit. Otherwise, confidentiality of personal information shall be maintained on all recipients participating in the program at all times.

21—50.7(159) Recipient responsibilities. Recipients shall be responsible for, but not limited to, the following:

1. Qualifying under WIC program guidelines and attending a designated distribution clinic during the relevant distribution cycles when vouchers are dispersed.

2. Properly signing voucher(s) at time of use in the presence of the certified vendor who is accepting each in exchange for fresh produce.

3. Using vouchers only to purchase locally grown fresh produce from certified vendors who display WIC/IFMNP signs at authorized farmers markets.

4. Redeeming vouchers on or before the expiration date printed on the face of the voucher, or surrendering all claim to the value of vouchers that remain unredeemed.

5. Ensuring vouchers that are received are not assigned to any other party other than as outlined.

6. Reporting violations or problems to the department or the local agency.

7. Reporting all incidents of lost or stolen vouchers to the local agency.

21—50.8(159) Farmers market authorization and priority.

50.8(1) A farmers market shall be eligible for authorization provided such farmers market possesses a consistent track record of satisfactory operation as evaluated by the department which shall be based in part upon the submission of assurances by a duly authorized representative of the farmers market. Farmers market assurances shall be submitted in a manner outlined by the department and shall provide evidence as to whether a farmers market possesses the capability to service the additional demands brought about by distribution of vouchers in the area without causing undue harm to the existing farmers market consumer base and indications of willingness by persons associated with the farmers market to meet all WIC/IFMNP requirements. Information submitted by a farmers market shall include but not be limited to:

- a.* The number of locally grown fresh produce vendor participants,
- b.* Hours of operation to be maintained per week,
- c.* Season of operation, and
- d.* Accessibility and consistency of farmers market location.

50.8(2) The department shall give priority to a farmers market with previous involvement in WIC/IFMNP, provided the farmers market possesses a consistent track record for maintaining conditions outlined in its farmers market assurances and does not have a high incidence of certified vendor non-compliance, suspensions, or disqualifications.

50.8(3) A principal factor in determining farmers market authorization shall pertain to the number of eligible applications received by the department prior to the fifteenth of April that indicate the intent to participate in the given farmers market. The standard for the authorization of a single or principal farmers market in a county shall be one eligible application for every 100 recipients who participate in the distribution clinic(s) in said county. A standard of five eligible applications is required for a farmers market to receive authorization.

50.8(4) The number of farmers markets authorized for the season shall be determined by the department no later than the first day of May prior to each season.

50.8(5) A market authorized to participate in WIC/IFMNP must ensure that at least one certified vendor remains on site during the published days and hours of market operation. Failure to comply will result in a warning letter from the department. Repeated noncompliance could result in the revocation of the market's authorization to accept WIC/IFMNP vouchers.

21—50.9(159) Vendor certification.

50.9(1) Vendor certification shall not be in effect and vouchers shall not be accepted until receipt by the applicant of a certified vendor identification card, a certified vendor identification sign and the applicant copy of the department-vendor agreement.

50.9(2) Vendor certification expires at the end of each year of issuance. Individuals must annually apply and receive vendor certification in order to participate in WIC/IFMNP.

50.9(3) The department does not limit the number of vendors who may become certified under WIC/IFMNP. A vendor certified to accept program vouchers may accept vouchers at any authorized market in the state upon approval by the department to participate in that particular market and acceptance by the particular market. A vendor who satisfies all the following criteria shall be certified to accept vouchers.

- a.* Agrees to begin the market day with at least 20 percent of all products on display in a certified vendor stall as locally grown fresh produce.
- b.* Indicates an intent to participate in one or more authorized farmers markets.
- c.* Demonstrates participation in training on WIC/IFMNP rules and procedures through attendance in an entire session of one of the scheduled training meetings conducted by department staff as required by the department.
- d.* Submits a completed application to the department prior to the deadline.
- e.* Submits completed and signed certified vendor agreements to the department.

21—50.10(159) Certified vendor obligations. A certified vendor shall be responsible for, but not limited to, the following:

1. Accept vouchers only for a transaction that takes place at an authorized farmers market and only in exchange for locally grown fresh produce.
2. Identify self to recipients by prominently displaying a certified vendor identification sign as outlined in the certified vendor handbook.
3. Provide locally grown fresh produce to recipients upon receipt of a valid and properly completed voucher, which is signed at the time of sale.
4. Accept vouchers as payment for locally grown fresh produce only if presented on or before the usage expiration date printed on the face of the voucher.
5. Handle transactions with recipients in the same manner as transactions with all other customers, ensuring WIC/IFMNP clients are not exposed to discriminatory practices in any form.
6. Not collect state or local taxes on purchases involving vouchers.
7. Charge recipients a price for locally grown fresh produce that is equal to or less than the current price charged to nonrecipient customers.
8. Not levy a surcharge based on the use of vouchers by recipients.
9. Return no cash or issue credit in any form to recipients during sales transactions that involve vouchers only. In the event of a single transaction in which a recipient presents a combination of cash and vouchers for the purchase of locally grown fresh produce, cash or credit up to the value of the cash portion of the payment shall be given to the recipient.
10. Participate in training as the department deems necessary to carry out the intent of WIC/IFMNP.
11. Cooperate with the department in the evaluation of each season by completely and accurately responding to a survey, with resubmission to the department in a specified and timely manner.
12. Immediately inform the department in the event of loss, destruction, or theft of either the certified vendor identification card or certified vendor identification sign so that a replacement may be issued.
13. Comply with all procedures and rules as herein outlined and as delineated in the department-vendor agreement, the certified vendor handbook, and written notices of clarification issued by the department to the vendor.

21—50.11(159) Certified vendor noncompliance sanctions.

50.11(1) A voucher shall be returned to the certified vendor unpaid if the certified vendor identification number is not properly affixed to the face of the voucher, if the certified vendor does not endorse the voucher or if the recipient signature is missing on the face of the voucher. A voucher may be resubmitted for payment in the event that the signature or vendor certification identification error can be properly and legally corrected by the certified vendor.

50.11(2) Violations of WIC/IFMNP procedures and rules applicable to a certified vendor shall be identified as Class I violations, Class II violations, and Class III violations.

Violations involving the use of multiple vouchers in a single sales transaction shall be considered as a single violation. Violations involving multiple sales transactions, regardless of time elapsed, shall be considered multiple violations at a standard of one violation per sales transaction.

a. Class I violations shall result in a written citation of noncompliance from the department to the violating certified vendor. The following shall constitute Class I violations:

- (1) Failure to appropriately display the certified vendor identification sign.
- (2) Failure to post the current operating year decal on the certified vendor identification sign and ID card.

b. Class II violations shall result in a written citation of noncompliance from the department to the violating certified vendor. The following shall constitute Class II violations:

(1) Noncompliance with rules and procedures as outlined in the vendor certification handbook and in the department-vendor agreement, and which is not specifically identified as a Class I or Class III violation.

(2) Refusal to accept valid vouchers for locally grown fresh produce.

(3) Failure to permit or comply with procedures regarding inspection of evidence by the department when point of origin of fresh produce on display or offered for sale in a certified vendor stall is in question.

(4) Abusive or discriminatory treatment of recipients or WIC/IFMNP staff.

(5) Failure to display and offer minimum required volumes of locally grown fresh produce while participating as a certified vendor.

(6) Displaying or offering for sale nonlocally grown fresh produce in a certified vendor stall.

(7) Exchanging ineligible products (other than nonlocally grown fresh produce) for vouchers.

(8) Accepting WIC/IFMNP checks at locations, times, or on dates other than those scheduled for authorized markets.

(9) The second substantiated instance of a Class I violation by a single certified vendor.

c. Class III violations shall result in a written citation of noncompliance and if substantiated or accepted a suspension and potential disqualification of the violating vendor from participation in WIC/IFMNP. The following shall constitute Class III violations:

(1) Accepting WIC/IFMNP vouchers for nonlocally grown fresh produce.

(2) Accepting WIC/IFMNP vouchers for cash.

(3) Cashing WIC/IFMNP vouchers accepted by noncertified vendors.

(4) Charging recipients a price for an item that is greater than that charged nonrecipients, charging for items not received or participating in other discriminatory practices.

(5) Continued participation of a certified vendor in the WIC/IFMNP during a period of suspension, including acceptance or evidence of intent to accept WIC/IFMNP vouchers.

(6) The third substantiated instance of a Class I violation by a single certified vendor.

(7) The second substantiated instance of a Class II violation by a single certified vendor.

50.11(3) Notice of noncompliance. A written notice of noncompliance shall be issued to the certified vendor by the department within 72 hours of receipt of evidence involving an act of noncompliance. A written notice of noncompliance from the department shall be pending for 72 hours following receipt of the notice of noncompliance by the certified vendor. The certified vendor shall be granted the pending period for presenting sufficient evidence to the department to substantiate a reversal. Remedies undertaken in response to receipt of a written notice of a pending citation of noncompliance shall not constitute evidence in defense of such citation. Failure to present any evidence (oral or written) to the department within the specified period shall constitute acceptance of the citation of noncompliance by the certified vendor. Submission of insufficient evidence by the certified vendor for determination of reversal on the pending citation by the department shall result in a citation of noncompliance upon completion of the pending period.

50.11(4) Suspension. Suspension of a certified vendor from participation in WIC/IFMNP shall remain in effect for a maximum of 15 days and will be utilized to ensure the certified vendor has adequate time to appeal an official Class III violation notice. If the incident leading to a suspension status is substantiated, the certified vendor will be automatically disqualified at the conclusion of the suspension period. If the incident leading to the suspension is not substantiated, the suspension will be immediately lifted. During the suspension period, the cited vendor will refrain from participating in WIC/IFMNP.

50.11(5) Disqualification. Disqualification shall follow a suspension period if the Class III violation is substantiated. The disqualified vendor is required to return the vendor identification sign(s) and card to the department within 15 days of receipt of the disqualification notice. A certified vendor that has been disqualified at any point in the season will be disqualified from participation for the remainder of that season and the following season. In the event of a disqualification, the department shall have the right to reimbursement from the vendor of an amount equal in value to vouchers deposited after the official date of disqualification notification.

At the conclusion of a disqualification period, the vendor must reapply for and receive certification in order to resume participation in WIC/IFMNP.

50.11(6) Probationary status. Any vendor successfully recertified following disqualification will be on probationary status for one full WIC/IFMNP season.

Recurrence of a substantiated Class II or Class III violation during the probationary period and for which the certified vendor has been cited shall be sufficient grounds for immediate and automatic disqualification.

21—50.12(159) Appeal. A certified vendor wishing to appeal a decision made by the department which resulted in a suspension or disqualification may make a written request for administrative appeal to the department's WIC/IFMNP director. This appeal must be made within 15 days of receipt of decision notification by the certified vendor. The provisions of 21—Chapter 2 shall be applicable to an appeal except as otherwise provided in this chapter.

21—50.13(159) Deadlines.

50.13(1) Submission of farmers market assurances. Assurances, on forms provided by the department, must be submitted no later than the first day of May in order for the farmers market to receive consideration of authorization for the upcoming season.

50.13(2) Submission of vendor application. All applications shall be submitted no later than one month preceding the last date in which vouchers may be used by recipients at authorized farmers markets.

50.13(3) Recipient voucher usage expiration. Vouchers shall be valid for recipient use from the time of issue through the season ending date as designated by the department. Such date shall be clearly printed on the voucher face. Voucher usage shall be null and void after expiration date.

50.13(4) Certified vendor voucher reimbursement. All vouchers accepted by a certified vendor shall be deposited on or before 15 days following the date of expiration for voucher usage by recipients. Such date shall be clearly printed in the endorsement space on the back of the voucher. Any claim to voucher payment beyond the voucher reimbursement expiration date is not valid and shall be denied.

50.13(5) Submissions by local agency. Deadlines for submission of records, reports, survey instruments and undistributed vouchers by local agencies shall be established by the department and specified in the agreement entered into with the local agency.

50.13(6) Operations plans and reports to USDA-FNS. The department shall develop and submit plans and reports in a manner prescribed by USDA-FNS.

21—50.14(159) Discrimination complaints. Women, infants, and children/Iowa farmers market nutrition program (WIC/IFMNP) is open to all eligible persons. Persons seeking to file discrimination complaints based on race, national origin, age, sex, or disability may write to USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue SW, Washington, DC 20250-9410.

These rules are intended to implement 1990 Iowa Acts, chapter 1260, section 1, subsection 3, and Iowa Code chapter 159.

[Filed 4/10/91, Notice 12/12/90—published 5/1/91, effective 6/5/91]

[Filed emergency 3/30/01 after Notice 2/7/01—published 4/18/01, effective 3/30/01]